IN THE

Supreme Court of the United States

OCTOBER TERM, 1960

JAN A. BATA

Petitioner

v.

THOMAS J. BATA, THOMAS J. BATA and DAVID GRAHAM as Executors of the Estate of Mar-T Bata and WESTERN INVESTMENT AND TRADING COMPANY LIMITED, a Bermuda Corporation

Respondents

Citations

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Matson Navigation Co. v. United States, 284 U.S. 352 (1932) 2

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Sullivan v. Texas, 207 U.S. 416 (1908) 2

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October Term, 1960

No. 996

JAN A. BATA

Petitioner

v.

THOMAS J. BATA; THOMAS J. BATA and DAVID GRAHAM as Executors of the Estate of Mary T. Bata; and WESTERN INVESTMENT AND TRADING COMPANY LIMITED, a Bermuda Corporation

Respondents

PETITIONER'S REPLY BRIEF TO BRIEF FOR RESPONDENTS IN OPPOSITION

It is respectfully submitted that an analysis of the Brief for Respondents in Opposition, in its entirety, shows that it includes a virtual confirmation that the position of the petitioner herein is well founded.

The Brief for Respondents includes the admission that the decision of the Supreme Court of Delaware rests upon a decision by that court in 1961 of the law of Czechoslovakia affecting the probate of the estate of Thomas Bata in 1932 and 1933, and that the decision of the Supreme Court of Delaware is different from and the reverse of the decisions and proceedings of the Czechoslovakian Court of competent jurisdiction, made and entered at the time of the probate, and on the basis of which the estate was distributed under the supervision of the Czechoslovakian probate court.

Brief for Respondents pages 2, 5, 6.

The lack of jurisdiction of the Delaware Supreme Court to make such a collateral attack on the *in rem* Czechoslovakian probate proceedings and decisions was

raised correctly and definitely in the Supreme Court of Delaware by the petitioner.

Appendix E page 3-15, 20
Matson Navigation Co. v. *United States*, 284 U. S. 352, 359 (1932)

Mr. Justice Stone stated in Matson Navigation Co. v. United States, *supra*, at page 359:

"As the want of jurisdiction is of the subject matter, it may be considered, and appropriate judgment given, at any stage of the proceedings, either here or below."

The substantial federal questions presented in the petition for writ of *certiorari* were raised directly and effectively, and the rights of the petitioner under the treaties with Brazil and under the Constitution and authority of the United States were specifically set up and claimed in the Supreme Court of Delaware. In its opinion of April 25, 1961 that court recognized the federal claims and overruled them.

Appendix E, page 21-25, 47, 51, 52.
Appendix A, page 172, 174.

This Court has jurisdiction to issue a writ of *certiorari*.

28 *U. S. C.* 1257 (3)
McKay v. *Kalyton*, 204 U. S. 458, 463 (1906)
Sullivan v. *Texas*, 207 U. S. 416, 422 (1908)
Fleming v. *Fleming*, 264 U. S. 29, 31 (1924)
Cumberland Coal Co. v. *Board*, 284 U.S. 23, 24 (1931)

In *Cumberland Coal Co.* v. *Board*, *supra*, Chief Justice Hughes stated, at page 24:

"The specific contention that the plan of assessment violated the equal protection clause of the 14th Amend-

ment was presented by petition for reargument and was considered and was explicitly overruled by the Supreme Court. As the State Court entertained and decided the federal question, this court has jurisdiction."

The Czechoslovakian judicial proceedings and decisions which probated and distributed the estate, clearly and definitely on the basis of the validity of the two holographic documents, and which supervised the distribution of the Bata shoe business to the petitioner and of the substantial funds and credits provided by the petitioner to the multiple legatees including respondents, all in accordance with the will, has never been appealed, reversed, modified, or challenged in any Czechoslovakian court in the nearly thirty years since it was carried out. Appendix B

It is respectfully submitted, application for a writ of *certiorari* should be granted.

(s) HAROLD STASSEN,
(s) AMOS J. PEASLEE,
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